SOUTHERN RAILWAY COMPANY *v.* BURLINGTON LUMBER COMPANY.

ERROR TO THE SUPREME COURT OF THE STATE OF NORTH CAROLINA.

No. 236. Argued May 3, 1912.—Decided May 27, 1912.

Decided on authority of *Southern Railway Company* v. *Reid*, 222 U. S. 424, and *Southern Railway Company* v. *Reid & Beam*, 222 U. S. 444.

THE facts are stated in the opinion.

Mr. John K. Graves, with whom *Mr. Alfred P. Thom* was on the brief, for plaintiff in error.

No appearance for defendant in error on the argument. *Mr. W. H. Carroll* and *Mr. Lee S. Overman* subsequently filed a brief for defendant in error.

MR. JUSTICE HOLMES delivered the opinion of the court.

This is an action to recover penalties under a statute of North Carolina for refusal to receive goods for shipment. As the statute is the same that was held bad, so far as it concerns commerce among the States, in *Southern Railway Co.* v. *Reid*, 222 U. S. 424, and *Southern Railway Co* v. *Reid & Beam*, 222 U. S. 444, a short statement will be enough. On January 26, 1907, the Burlington Lumber Company tendered to the Railway Company at Burlington, North Carolina, certain machinery for shipment to Saginaw, Michigan, on a through bill of lading. Saginaw was not on the Railway Company's line, the company had no rates to Saginaw and the agent had to delay in order to inquire of his superiors. The result was that the through bill of lading was not issued until April 3. The suit, as we have said, is for the penalty and nothing else. The Supreme Court of the State decided against the Railway on the same ground that it did in the decisions already reversed. In the circumstances it seems unnecessary to discuss the case more at length.

Judgment reversed.